

§ 1042.635

40 CFR Ch. I (7–1–08 Edition)

conditions of this section, the vessel and its engine are considered to be exempt from the standards and requirements of this part that apply to new engines and new vessels. The prohibitions in § 1068.101(a)(1) do not apply to engines exempted under this section. For example, you may install an engine that was not certified as a marine engine.

(a) The vessel may not be manufactured from a previously certified vessel, nor may it be manufactured from a partially complete vessel that is equivalent to a certified vessel. The vessel must be manufactured primarily from unassembled components, but may incorporate some preassembled components. For example, fully preassembled steering assemblies may be used. You may also power the vessel with an engine that was previously used in a highway or land-based nonroad application.

(b) The vessel may not be sold within five years after the date of final assembly.

(c) No individual may manufacture more than one vessel in any ten-year period under this exemption.

(d) You may not use the vessel in any revenue-generating service or for any other commercial purpose, except that you may use a vessel exempt under this section for commercial fishing that you personally do.

(e) This exemption may not be used to circumvent the requirements of this part or the requirements of the Clean Air Act. For example, this exemption would not cover a case in which a person sells an almost completely assembled vessel to another person, who would then complete the assembly. This would be considered equivalent to the sale of the complete new vessel. This section also does not allow engine manufacturers to produce new engines that are exempt from emission standards and it does not provide an exemption from the prohibition against tampering with certified engines.

(f) The vessel must be a vessel that is not classed or subject to Coast Guard inspections or surveys.

§ 1042.635 National security exemption.

The standards and requirements of this part and prohibitions in § 1068.101(a)(1) do not apply to engines exempted under this section.

(a) You are eligible for the exemption for national security only if you are a manufacturer.

(b) Your engine is exempt without a request if it will be used or owned by an agency of the federal government responsible for national defense, where the vessel has armor, permanently attached weaponry, specialized electronic warfare systems, unique stealth performance requirements, and/or unique combat maneuverability requirements.

(c) You may request a national security exemption for engines not meeting the conditions of paragraph (b) of this section, as long as your request is endorsed by an agency of the federal government responsible for national defense. In your request, explain why you need the exemption.

(d) Add a legible label, written in English, to all engines exempted under this section. The label must be permanently secured to a readily visible part of the engine needed for normal operation and not normally requiring replacement, such as the engine block. This label must include at least the following items:

(1) The label heading “EMISSION CONTROL INFORMATION”.

(2) Your corporate name and trademark.

(3) Engine displacement, family identification, and model year of the engine (as applicable), or whom to contact for further information.

(4) The statement “THIS ENGINE HAS AN EXEMPTION FOR NATIONAL SECURITY UNDER 40 CFR 1042.635.”.

§ 1042.640 Special provisions for branded engines.

The following provisions apply if you identify the name and trademark of another company instead of your own on your emission control information label, as provided by § 1042.135(c)(2):

(a) You must have a contractual agreement with the other company that obligates that company to take the following steps:

(1) Meet the emission warranty requirements that apply under § 1042.120. This may involve a separate agreement involving reimbursement of warranty-related expenses.

(2) Report all warranty-related information to the certificate holder.

(b) In your application for certification, identify the company whose trademark you will use.

(c) You remain responsible for meeting all the requirements of this chapter, including warranty and defect-reporting provisions.

§ 1042.650 Migratory vessels.

The provisions of this section address concerns for vessel owners related to extended use of vessels with Tier 4 engines outside the United States where ultra low-sulfur diesel fuel is not available.

(a) *Temporary exemption.* A vessel owner may ask us for a temporary exemption from the tampering prohibition in 40 CFR 1068.101(b)(1) for a vessel if it will operate only in areas outside the United States where ULSD is not available. In your request, describe where the vessel will operate, how long it will operate there, why ULSD will be unavailable, and how you will modify the engine, including its emission controls. If we approve your request, you may modify the engine, but only as needed to disable or remove the emission controls needed for meeting the Tier 4 standards. You must return the engine to its original certified configuration before the vessel returns to the United States to avoid violating the tampering prohibition in 40 CFR 1068.101(b)(1). We may set additional conditions to prevent circumvention of the provisions of this part.

(b) *SOLAS exemption.* We may approve a permanent exemption from the prohibitions in 40 CFR 1068.101(a)(1) for an engine that is subject to Tier 4 standards as described in this paragraph (b).

(1) Vessel owners may ask for a permanent exemption from the Tier 4 standards for an engine that will be installed on vessels that will operate for extended periods outside the United States, provided they demonstrate all of the following are true:

(i) Prior to introduction into service, the vessel will comply with applicable

certification requirements for international safety pursuant to the U.S. Coast Guard and the International Convention for the Protection of Life at Sea (SOLAS). The vessel owner must maintain compliance with these requirements for the life of the exempted engine.

(ii) The vessel will be used in areas outside of the United States where ULSD will not be available.

(iii) The mix of vessels with engines certified to Tier 3 or earlier standards in the owner's current fleet and the owner's current business operation of those vessels makes the exemption necessary. Note that because of the large fraction of pre-Tier 4 engines in the fleet prior to 2021, a request for a Tier 4 exemption prior to that year must clearly demonstrate that unusual circumstances apply.

(2) An engine exempted under this paragraph (b) must meet the Tier 3 emission standards described in § 1402.101, subject to the procedural requirements of 40 CFR 1068.265.

(3) If you introduce an engine into U.S. commerce under this section, you must meet the labeling requirements in § 1042.135, but add the following statement instead of the compliance statement in § 1042.135(c)(10):

THIS ENGINE DOES NOT COMPLY WITH CURRENT U.S. EPA EMISSION STANDARDS UNDER 40 CFR 1042.650 AND IS FOR USE SOLELY IN SOLAS VESSELS. INSTALLATION OR USE OF THIS ENGINE IN ANY OTHER APPLICATION MAY BE A VIOLATION OF FEDERAL LAW SUBJECT TO CIVIL PENALTY.

(4) Operating a vessel containing an engine exempted under this paragraph (b) violates the prohibitions in 40 CFR 1068.101(a)(1) if the vessel is not in full compliance with applicable requirements for international safety specified in paragraph (b)(1)(i) of this section.

(c) *Vessels less than 500 gross tons.* In unusual circumstances for vessels less than 500 gross tons, we may approve a vessel owner's request for a permanent exemption from the prohibitions in 40 CFR 1068.101(a)(1) for an engine that is subject to Tier 4 standards that will operate for extended periods outside the United States without it being in